IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 864 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SALAIYA DUDH UTPATAK S. M. LTD.

Versus

DISTRICT REGISTRAR (RURAL)

Appearance:

MR RC JANI for Petitioners

MS NANDINI JOSHI AGP for Respondent Nos.1 to 4

MR JAYANT PATEL AGP for Respondent Nos. 5 to 12

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 27/03/2001

ORAL JUDGEMENT

1. By means of this position, the petitioners sought direction to the respondents authorities to include the names of the petitioners societies and their members in the voters list in respect of the Election of Mansa

Agriculture Produce Market Committee, scheduled to be held on March, 28, 2001.

2. It is the case of the petitioners that the petitioners are the cooperative societies registered under the provisions of the Cooperative Societies Act and are engaged in the milk business. In view of Section-2 of the Gujarat Agriculture Produce Market Committee Act, 1963, the business of production of milk, selling and purchasing the milk and milk products falls under Section-2 of the said Act. The petitioners' names have not been included in the provisional list and in the final list for the election of Agriculture Produce Market Committee, Mansa. The petitioners' names are not included in the first list. Hence, the petitioners addressed a letter dated 10th January, 2001 and submitted necessary documentary evidence to show that the petitioners societies are entitled to be included in the voters list. Thereafter, the respondents authorities have issued its final list, ignoring the factual position, and did not include the petitioners societies in the voters list. The action on the part of the respondents authorities deserve to be deprecated by this Court.

3. The respondent No.4 - Election Officer has filed affidavit-in-reply stating that the petitioners are not agricultural credit societies the petitioners are not included in voters list and the respondent No.4 has prepared voters list as it is obviously clear that the petitioners are not covered under Section 11(1) of the Gujarat Agricultural Product Market Act, 1963. The petitioners societies are milk producer's Co-operative societies and are mainly dealing with the business of purchase and sales milk and their activities are not at par with Co-operative societies dispensing Agricultural Credit. The petitioners societies can not be included in the voters list for agriculturist constituency for the reason as to that petitioners have not mentioned any where in the proposal, in which constituency the names of the members of the managing committee of the petitioners societies should be included. On 1st February, 2001, the petitioners societies made a representation to the respondent No.4, there are no provisions in the byelaws of the petitioners societies for the purpose of agricultural credit and, therefore, the petitioners societies are not included in the voters list in view of Section 11(1) of the Gujarat Agricultural Produce Market Act, 1963.

4. The other respondent Nos. 6, 7, 8, 10, 11 and 12

are the societies who are actually dispensing agricultural credit. The respondent No.9 is not dispensing agricultural credit and, therefore, the members of the managing committee of the said societies were deleted from the voters list. Section 11(1) of the Gujarat Agricultural Produce Market Act, 1963 says about the Constitution of market committee. (1) Every market committee shall consist of the following members namely:-

(i) Eight agriculturists who shall be elected by members of managing committees of Co-operative Societies (other than Co-operative Marketing Societies) dispensing agricultural credit in the Market area.

5. The contentions of the learned counsel for the petitioners that even in the Letters Patent Appeal No.1735 of 1999, this Court interpreting the provisions of Section 11(1) that only requirements for voting rights for the purpose would be (i) those whose names are forwarded by the Co-operative Society should be the members of its managing committee, (ii) such society should be a Co-operative Society other than a co-operative marketing society defined in Section 2(v) of the Act as a society engaged in the business of buying or selling of agricultural produce or of processing of agricultural produce and holding a licence and (iii) such co-operative society should be a society dispensing agricultural credit in the market area. Therefore, such co-operative which dispenses agricultural credit in the market area is qualified to send the members of its managing committee for inclusion in the voters list under Rule 5(1) of the Rules for electing eight agriculturists. He has also referred that the Division Bench has also held that only restriction is that it should be done in the market area declared under Section 6 of the said Act and it is not necessary that the society must be dispensing agricultural credit in the market area.

6. Heard the learned counsels for both the parties and I have anxious thought to the contentions raised by the learned counsel for both the parties in the present case provisional list has already been prepared. Thereafter, the petitioners have filed a representation before the Election Officer. After considering that representation the election officer has not included the names of the petitioners societies in the final list, against that decision this petition has been preferred. The process of voting to be held on 28th March, 2001. This court will not interfere with the election process which has already been started and the voting has to be

conducted on 28th March, 2001.

7. In view of the facts, I do not find any good reasons to interfere at this stage. Accordingly, this petition is dismissed. Rule is discharged.

(Kundan Singh, J.)

(vrpanchal)*